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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,292	12/23/2004	Guido Knobel	04-605	9139
34704 7590 08/04/2009 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
EXAMINER				
BODAWALA, DIMPLE N				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/519,292

**Applicant(s)**

KNOBEL, GUIDO

**Examiner**

DIMPLE N. BODAWALA

**Art Unit**

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 25-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/30/2009 has been entered.

### **New Ground of Rejections**

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Foster (US 3,692,456).**

4. Foster discloses an apparatus for converting molten thermoplastic in cup-like article, thus, apparatus enable to convert the molten in an outer shell configuration of the product, wherein apparatus comprises mold (46) includes a female die (61); male die (63), wherein male die disposed on a movable ram (101), wherein male die (63) having an internal space occupied with a plurality of grooves (189,201,202), wherein grooves are

helix formed and connected to the tempered water from the tank via a flexible hose (197) under pressure (See col.13 lines 6-36), wherein temperature of water, such as cooling most effective for causing and properly timing the solidification of the material in all parts of cavity substantially simultaneously during operation, thus, such configuration of the male die enable to use male die as water-cooled ram as claimed, wherein such water-cooled ram associated with movable ram (101), thus, water-cooled ram is adapted to selectively move into and out of mold. It further teaches that the male die (63) comprises aligned hole (86) as an axial bore is adapted to receive stem (127,85) as a displacement ram (See figure 12), wherein stem (127,85) is aligned vertically with cross bar (166), wherein cross bar is associated with movable ram (101,105), thus, displacement ram is movably mounted within the axial bore and configured to selectively move into and out of mold (See figure 11).

**5. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Yaita et al. (US 4,758,394).**

6. Yaita et al. discloses an invention which comprises male shaping member (31), and a female molding member (30), wherein male member (31) discloses heating/cooling means (36b) which is adapted to connect supply source (not shown), wherein supply source is capable to supply steam and/or cooling water as required (See col.10 line 59 through col.11 line 4). It further teaches that the male shaping member (31) comprises a pipe (36c) is associated with axial bore (see figure 16), and source of gas connected to the

tube (36c), and the gas from the source communicates through the tube into mold in order to heat/cool the mold (See figure 16).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. **Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foster (US 3,692,456) in view of Oliver et al. (US 1,637,532).**

10. Foster discloses an apparatus for converting molten thermoplastic in cup-like article, thus, apparatus enable to convert the molten in an outer shell configuration of the product, wherein apparatus comprises mold (46) includes a female die (61); male die (63), wherein male die disposed on a movable ram (101), wherein male die (63) having an internal space occupied with a plurality of grooves (189,201,202), wherein grooves are

helix formed and connected to the tempered water from the tank via a flexible hose (197) under pressure (See col.13 lines 6-36), wherein temperature of water, such as cooling most effective for causing and properly timing the solidification of the material in all parts of cavity substantially simultaneously during operation, thus, such configuration of the male die enable to use male die as water-cooled ram as claimed, wherein such water-cooled ram associated with movable ram (101), thus, water-cooled ram is adapted to selectively move into and out of mold.

11. Foster discloses all claimed limitations as discussed above. It further teaches that the apparatus comprises male die defining side walls, but fails to teach or suggest that the shaping surface of the male die is coated with a flexible sheath.

12. In the analogous art, Oliver et al. discloses an invention related to mold for forming plastic container, wherein invention comprises a male die; and female die, wherein shaping surface of the male die is coated with flexible diaphragm which may be made of rubber or other suitable material (See page 1 lines 50-59).

13. Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Foster by providing flexible sheath at the exterior of the core or male die because such configuration of the die enable to release die easily from the molded product without damaging the shape of the molded product, and, thus, such function of the configuration of the male die adapted to use for molding food product in desired features and configuration. It is not necessary that the prior art suggests expressly or in so many words the changes or possible improvements the

inventor made but that the knowledge is clearly present. *In re Sernaker*, 217 USPQ 1 (Fed. Cir. 1983).

14. **Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uichi et al. (JP 05-168452) in view of Yaita et al. (US 4,758,394).**

15. Uichi et al. discloses an invention related to product forming mold, wherein mold comprises rigid die having an internal space with a passage or product molding part, wherein a product molding part made of elastic material such as rubber as a diaphragm (See paragraph # 13 of translation), and internal space of the die is communicated with cooling medium such as air (see figure 2). Apparatus of Uichi et al. further discloses a mold carrying chocolate confectionary mixture (See paragraph #16 of translation; figure 2). During the operation, the internal space of the die is filled with cooling medium, the product forming mold located in a passage inflated and contacted with mold (See figure 2), and, thus, ram is capable to move in and out of the mold.

16. Uichi et al. discloses an invention with all claimed limitations as discussed above. It further teaches that the internal space of the ram is filled with cooling medium such as air, but fails to teach or suggest cooling medium such as water as claimed.

17. Yaita et al. ('394) discloses an invention which comprises male shaping member having an internal space (35a, 35b) is filled with cooling water (See figure 5).

18. Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify internal space of the plunger of Uichi et al. by communicating with cooling water rather than cooling air as taught by Yaita et al.

because such configuration is capable to inflate the diaphragm of primary art in desire pattern quickly, in order to compress-decompress the molded material within the mold, and thus able to manufacture the product in desired feature and configuration such smoothness and glossy, lustrous surface of the finished article and contributes to its appearance and marketability.

***Response to Arguments***

19. Rejections of claims under 35 USC 112, first and second paragraph have been withdrawn as a reason of record from the previous office action, mailed on 2/17/2009, in view of the amendment, filed on 6/30/2009.

20. Objection of drawing has been withdrawn as a reason of record from the previous office action, mailed on 2/17/2009, in view of the amendment, filed on 6/30/2009.

21. Applicant argues that Aasted (EP 0 945 069) does not show an axial bore nor does it show a displacement ram movably mounted within the axial bore of the water-cooled ram. Applicant argues that Knobel fails to disclose a tube communicate with the mold and that the gas pressure communicate through the tube and into the mold. Applicant argues that Barger et al. (US 3,171,731) fails to disclose a tube communicate with the mold and that the gas pressure communicate through the tube and into the mold.

Applicant argues that Barger et al. (US 3,171,731) deals with glass molding, Austin (US 4,076,207) patent deal with a mold for a food wherein the mold is inverted and a button is pressed to eject the food from the mold onto a plate. Young (US 2,363,107) patent deals



with a press form making hamburger patties. It is clearly submitted that this is non-analogous arts.

22. Applicant's all arguments with respect to rejection of claims 25-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIMPLE N. BODAWALA whose telephone number is (571)272-6455. The examiner can normally be reached on Monday - Friday at 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PHILLIP C. TUCKER can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dimple N Bodawala  
Examiner  
Art Unit 1791

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